REMARKS

Reconsideration of this application is respectfully requested in light of the above amendments and the following remarks. After the amendments detailed above, claims 1-5, 10-15 and 20-29 are pending in this application. In particular, claims 1, 10 and 20 have been amended and claims 2-5, 11-15 and 21-29 have been maintained in their previous form. Claims 6-9, 16-19 and 30-40 remain canceled. No new claims have been added. Applicant asserts that the amended claims are fully supported by the disclosure of the application as filed, and as such, do not introduce new matter. The status of all the pending claims is reflected in the above listing.

I. Claims Rejected Under 35 U.S.C. § 102

Claims 1-2, 4-5, 10-11, 13, 15, 20-21, 23 and 26-27

Claims 1-2, 4-5, 10-11, 13, 15, 20-21, 23 and 26-27 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,229,764 to Matchett et al. These rejections are moot as claims 1, 10 and 20 have been amended.

"Anticipation requires the disclosure in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim." Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing Connell v. Sears, Roebuck & Co., 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)). As set forth below, Matchett fails to expressly or inherently disclose at least one element recited in each of the amended independent claims.

As described and claimed in the present application, a passive biometric customer identification and tracking system 10 includes a digital camera 20 for acquiring an image of a player's face and sending that signal to a host processor 29 (fig. 1 and page 13, lines 8-9). The host processor 29 then compares the acquired digital image of the player's face to facial identification data (FID) entries 28a, 28b, 28c, 28d stored in a FID library 26 (fig. 2 and page 13, lines 13-14). "If the acquired image substantially corresponds to a stored image entry, the identified player's account file, shown as account file 30a, is placed into an open condition to receive the parameter of play from the gaming device 34 being played by the player" (fig. 2 and page 13, lines 15-18). Accordingly, as supported below, the present claims are patentably

distinct as written, and the rejection of these claims under Section 102 must be withdrawn. Specifically, claims 1, 10 and 20 have been amended to further recite '...when verified, opening a player's account to receive play data based on the verified player's play of said electronic gaming machine...'

Matchett, in contrast, fails to disclose placing a player's account into an open condition to receive play data base don play of a gaming machine after having verified the identity of the player. Matchett discloses a continuous biometric authentication system 10 for intermittent or continuous verification of a user for security purposes (col. 3, lines 15-21). An authorized user is initially registered 20 and biometric reference data is stored 22 on the system (fig. 5 and col. 10, lines 10-13). When the user attempts access 23, data is collected and compared 29 to the previously stored reference data 22. If the threshold is acceptable 31 (i.e. if the user is verified as a valid registered user), the next step 32 is to determine whether system use is required (fig. 5). If use is required, the system returns to a ready state 24 in preparation of repeating the security verification process as previously described (fig. 5). If use is not required, the system proceeds to a ready state 33 and waits for the next user to access the system. As such, because the purpose behind Matchett is to provide a continuous or intermittent security system that periodically, randomly or continuously checks and verifies the identity or status of the user, Matchett fails to disclose placing a player's account into an open condition to receive play data based on a player's play of a gaming machine after having verified the identity of the player.

Since Matchett fails to expressly or inherently disclose each and every element of amended independent claims 1, 10 and 20 and claims 2, 4-5, 11, 13, 15, 21, 23 and 26-27 depend from and add further limitations to claims 1, 10 and 20, the rejection of these claims is also overcome. Thus, claims 1-2, 4-5, 10-11, 13, 15, 20-21, 23 and 26-27 are patentably distinct as written and the rejection of these claims under Section 102 should accordingly be withdrawn.

II. Claims Rejected Under 35 U.S.C. § 103

Claims 3, 12, 14, 22, 24-25 and 28-29

Claims 3, 12, 14, 22, 24-25 and 28-29 were rejected under 35 U.S.C. § 103(a) as being

unpatentable over Matchett in view of Daugman (U.S. Patent No. 5,291,560) or Franchi (U.S. Patent No. 5,770,533) or Slater (U.S. Patent No. 5,613,912). As discussed above, Matchett does not disclose or teach all of the elements recited in amended independent claims 1, 10 and 20. See discussion supra. Therefore, applicant respectfully asserts that claims 3, 12, 14, 22, 24-25 and 28-29 are not obvious over Matchett in view of Daugman or Franchi or Slater since these claims depend from and further limit claims 1, 10 and 20. The arguments made above with respect to claims 1, 10 and 20 regarding the applicability of the Matchett reference apply with equal force here. See discussion supra.

"To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). All words in a claim must be considered in judging the patentability of that claim against the prior art. In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious. In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)." MPEP 2143.03.

For the reasons above, the Examiner's burden of factually supporting a *prima facie* case of obviousness has clearly not been met because Matchett fails to expressly or inherently teach each and every element of amended independent claims 1, 10 and 20, namely, because the purpose in Matchett is to provide a biometric authentication matrix for continuous or intermittent biometric checks of a user for purposes of security protection, Matchett fails to disclose placing a player's account into an open condition to receive play data based on a player's play of a gaming machine after having verified the identity of the player. See discussion supra.

Moreover, since Matchett is a security system only, there is no motivation or suggestion to combine it with the systems of Franchi or Slater to track player play at an electronic gaming machine or a gaming table. Specifically, Matchett discloses a system for intermittingly verifying the user of a device. Accordingly, Matchett prevents one person from logging on to a device and then allowing a different, unverified user, from taking his or her place. Nothing in Matchett is concerned with acquiring player play data related to a gaming machine. Consequently, there is no motivation or suggestion, or purpose, for combining Matchett with

Franchi or Slater.

Since amended independent claims 1, 10 and 20 are not obvious under Section 103, then any claims, namely claims 3, 12, 14, 22, 24-25 and 28-29 depending therefrom are nonobvious. In re Fine. Therefore, the rejection of these claims should be withdrawn.

III. Conclusion

It is respectfully submitted that the application is now in condition for allowance and, accordingly, reconsideration and allowance are respectfully requested. Should any questions remain regarding the allowability of the application, the Examiner is invited to contact the undersigned at the telephone number indicated below.

Respectfully submitted,

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The Commissioner is hereby authorized to charge any deficiency or credit any overpayment of fees which may be required by this paper to Deposit Account No. 502466 including any fee for extension of time, or the fee for additional claims which may be required. Please show our docket number with any Deposit Account transaction. ***A copy of this letter is enclosed.***

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